

1 THE HONORABLE THOMAS S. ZILLY  
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10 UNITED STATES DISTRICT COURT  
11 WESTERN DISTRICT OF WASHINGTON  
12 AT SEATTLE

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14 MELISSA HYATT; MICHAEL PHILLIPS;  
15 SHANNON GRODA; and JOSHUA  
16 FORREST,  
17

18 Plaintiffs,

v.

20 STUDENT LOAN XPRESS, INC., a  
21 Delaware Corporation; LIBERTY BANK,  
22 N.A., an Ohio Corporation; AMERICAN  
23 EDUCATION SERVICES, a Pennsylvania  
24 Corporation; and DOE LOAN COMPANY I-  
V,  
25

26 Defendants.

STUDENT LOAN XPRESS, INC.,

Counterclaimant,

v.

MELISSA HYATT; MICHAEL PHILLIPS;  
SHANNON GRODA; and JOSHUA  
FORREST,  
23

24 Counter-Defendants.  
25  
26

No.: C09-1324-TSZ

STIPULATION AND PROPOSED ORDER  
TO STAY ACTION PENDING  
APPROVAL OF NATIONWIDE CLASS  
ACTION SETTLEMENT

1           1. Defendants Student Loan Xpress, Inc. (“SLX”), Liberty Bank, N.A.  
 2 and American Education Services, which is the fictitious name of the Pennsylvania Higher  
 3 Education Assistance Agency (collectively, “Defendants”), and Plaintiffs Melissa Hyatt,  
 4 Michael Phillips, Shannon Groda, and Joshua Forrest (collectively, “Plaintiffs”) hereby  
 5 respectfully move for and request a stay of these proceedings pending preliminary and final  
 6 approval of a related nationwide class action settlement (the “Nationwide Settlement”)  
 7 pending in the United States District Court for the Middle District of Florida (*Holman et al.*  
 8 v. *Student Loan Xpress, Inc.*, Case No. 8:08-cv-100305, filed February 13, 2008)  
 9 (the “Florida Action”). This stipulated request is made on the following grounds:

10           2. This action was removed to this Court on September 18, 2009.

11           3. The Complaint asserts claims on behalf of certain student-borrowers  
 12 who attended a helicopter school – Silver State Helicopters, LLC (“Silver State”) – which  
 13 ceased operations and filed a voluntary petition for relief under chapter 7 of title 11 of the  
 14 United States Code, 11 U.S.C. § 101 *et seq.*, in the United States District Court for the  
 15 District of Nevada in February 2008.

16           4. Silver State is not a party to this action, but rather, the Complaint  
 17 asserts a claim against Defendants who hold, service, originated, and/or funded the loans  
 18 taken out by Plaintiffs to finance their education at Silver State.

19           5. This action is the latest in a series of actions filed against SLX (and in  
 20 some instances, the other Defendants) relating to the closure and bankruptcy of Silver State  
 21 and Silver State’s business practices. The other actions include a nationwide putative class  
 22 action in the Florida Action, a California-only putative class action in the Northern District  
 23 of California (the “California Action”), and a South Carolina-only putative class action in the  
 24 United States District Court for South Carolina (the “South Carolina Action”).

25           6. On October 27, 2009, Defendant SLX, plaintiffs’ counsel in the Florida  
 26 Action, and plaintiffs’ counsel in the California Action filed a joint motion for preliminary

1 approval of the Nationwide Settlement in the Florida Action. If approved, the Nationwide  
 2 Settlement would, among other things, resolve the claims asserted against all the Defendants  
 3 in this action. Plaintiffs will be eligible to participate in Nationwide Settlement.

4       7.     The Nationwide Settlement provides substantial relief to putative class  
 5 members in the form of debt forgiveness and other benefits. It is supported by Attorneys  
 6 General for twelve states, including Robert McKenna, the Attorney General of the State of  
 7 Washington.

8       8.     Concurrent with their motion seeking preliminary approval of the  
 9 Nationwide Settlement, the parties in the Florida Action submitted a joint motion to enjoin  
 10 related actions in state or federal court – including this action – pending final approval of the  
 11 Nationwide Settlement.

12       9.     The motion for preliminary approval in the Florida Action is pending.  
 13 Upon receiving preliminary approval, the parties will provide notification to the class and  
 14 will proceed towards final approval. The final approval hearing in the Florida Action is  
 15 likely to occur in March 2010.

16       10.    In light of the Nationwide Settlement and the pending motion for a  
 17 preliminary injunction in the Florida Action that would enjoin the prosecution of this action  
 18 pending final approval of the Nationwide Settlement, the parties to this action jointly request  
 19 a stay of all litigation activity until thirty (30) days after the District Court in the Florida  
 20 Action rules on a motion for final approval of the Nationwide Settlement. The parties further  
 21 agree that a stay of litigation will conserve private and judicial resources, as the Nationwide  
 22 Settlement may eliminate any need for litigation in this action.

23       11.    Pursuant to the terms of the Nationwide Settlement, the California  
 24 Action has been dismissed without prejudice as to Defendants SLX and American Education  
 25 Services (Defendant Liberty Bank was not a party in the California Action). Further, the  
 26 South Carolina action has been stayed in light of the Nationwide Settlement.

1           12. Defendants have answered the Complaint in this action. Initial  
2 disclosures pursuant to Rule 26(a)(1) of the Federal Rules of Civil Procedure and a  
3 Combined Joint Status Report and Discovery Plan pursuant to Rule 26(f) of the Federal  
4 Rules of Civil Procedure and Local Rule CR 16 currently are due on November 23, 2009.  
5 There are no other pending deadlines.

6           13. The parties shall submit a status report within sixty (60) days from the  
7 date of entry of an order approving the stipulated stay. The status report will advise the  
8 Court of the progress of the Nationwide Settlement.

9 14. A proposed order is attached hereto.

10 DATED: November 16, 2009

BULLIVANT Houser Bailey PC

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No.: C09-1324-TSZ

PROPOSED ORDER TO STAY ACTION  
PENDING APPROVAL OF NATIONWIDE  
CLASS ACTION SETTLEMENT

1           This matter comes before the Court upon the parties' stipulation and proposed  
2 order to stay of all litigation activity pending approval of a nationwide class settlement by the  
3 Honorable Steven D. Merryday in the United States District Court for the Middle District of  
4 Florida in *Holman et al. v. Student Loan Xpress, Inc.*, Case No. 8:08-cv-100305  
5 (filed February 13, 2008) (the "Florida Action"). The Court finds good cause to grant a stay.  
6 Therefore, all litigation activity in this action shall be stayed until thirty (30) days after the  
7 District Court in the Florida Action rules on a motion for final approval of the nationwide  
8 class action settlement. The Court orders the parties to advise of the progress of the  
9 nationwide settlement in the Florida Action by filing a written report no later than sixty (60)  
10 days from the date of entry of this order.

11           **IT IS SO ORDERED**

12 Date: November \_\_\_, 2009

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13           Hon. Thomas S. Zilly  
14           United States District Court  
15           West District of Washington

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